

ASSEMBLY BILL

No. 506

Introduced by Assembly Member Furutani

February 24, 2009

An act to amend Sections 24214, 24216, 24216.5, and 24216.6 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 506, as introduced, Furutani. State teachers' retirement: postretirement earnings.

(1) The State Teachers' Retirement Law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until June 30, 2010, provides exemptions from this limit and specifies that the limitation provisions do not apply to compensation earned by a member retired for service who has returned to work after retirement and, for at least 12 consecutive months, has not performed specified activities.

This bill would, as of July 1, 2010, apply a limitation of \$0 to the compensation for performance of specified activities as an employee of an employer, an employee of a third party, or as an independent contractor during the first six calendar months after a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned. This bill would also extend the operation of these provisions until June 30, 2012.

(2) Under that law, operative until June 30, 2010, the service retirement allowance of a retired member of the Defined Benefit Program is exempt from a reduction if the retired member is appointed

as a trustee or administrator by the Superintendent of Public Instruction for a maximum period of 2 years, as specified. That law also exempts from the earnings limitation, until June 30, 2010, any specified types of service performed by members who retired for service on or before January 1, 2006, if certain conditions are met.

This bill would prohibit an exemption under that provision from being granted to a member retired for service whose termination of employment with the employer is the basis for the vacant administrative position. This bill would extend these provisions until June 30, 2012. The bill would instead provide that specified types of service performed by members who retired for service with an effective date on or before January 1, 2009, are exempt from the earnings limitation, if certain conditions are met.

(3) That law further exempts from the earnings limitation compensation received by a retired member providing direct remedial instruction, as specified, if that retired member retired on or before January 1, 2007. That law requires a school district that employs the retired member to submit documentation to the retirement system that substantiates the eligibility of the retired member for temporary employment under these provisions.

This bill would provide that the compensation received by a retired member providing direct remedial instruction, who retired for service with an effective date on or before January 1, 2009, shall be exempt from the earning limitation only until June 30, 2012.

(4) This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 24214 of the Education Code, as amended
- 2 by Section 5 of Chapter 494 of the Statutes of 2008, is amended
- 3 to read:
- 4 24214. (a) A member retired for service under this part may
- 5 perform the activities identified in subdivision (a) or (b) of Section
- 6 22119.5 as an employee of an employer, as an employee of a third
- 7 party, or as an independent contractor within the California public
- 8 school system, but the member may not make contributions to the
- 9 retirement fund or accrue service credit based on compensation

1 earned from that service. The employer shall maintain accurate
2 records of the earnings of the retired member and report those
3 earnings monthly to the system and retired member as described
4 in Section 22461.

5 (b) If a member is retired for service under this part, the rate of
6 pay for service performed by that member as an employee of the
7 employer, as an employee of a third party, or as an independent
8 contractor may not be less than the minimum, nor exceed that paid
9 by the employer to other employees performing comparable duties.

10 (c) A member retired for service under this part may not be
11 required to reinstate for performing the activities identified in
12 subdivision (a) or (b) of Section 22119.5 as an employee of an
13 employer, as an employee of a third party, or as an independent
14 contractor within the California public school system.

15 (d) A member retired for service under this part may earn
16 compensation for performing activities identified in subdivision
17 (a) or (b) of Section 22119.5 in any one school year up to the
18 limitation specified in subdivision (f) as an employee of an
19 employer, as an employee of a third party, or an independent
20 contractor, within the California public school system, without a
21 reduction in his or her retirement allowance.

22 (e) (1) The postretirement compensation limitation provisions
23 set forth in this section are not applicable to compensation earned
24 by a member retired for service under this part who has returned
25 to work after the date of retirement and, for a period of at least 12
26 consecutive months, has not performed the activities identified in
27 subdivision (a) or (b) of Section 22119.5 as an employee of an
28 employer, as an employee of a third party, or as an independent
29 contractor within the California public school system. For the
30 purpose of this paragraph, the period of 12 consecutive months
31 ~~begins from~~ *shall begin no earlier than* the effective date of the
32 member's most recent retirement.

33 (2) The postretirement compensation limitation provisions set
34 forth in this section are not applicable to compensation earned for
35 the performance of the activities described in subdivision (a) for
36 which the employer is not eligible to receive state apportionment
37 or to compensation that is not creditable pursuant to Section
38 22119.2.

39 (f) The limitation that shall apply to the compensation for
40 performance of the activities identified in subdivision (a) or (b) of

1 Section 22119.5 by a member retired for service under this part
2 either as an employee of an employer, an employee of a third party,
3 or as an independent contractor shall, in any one school year, be
4 an amount calculated by the board each July 1 equal to twenty-two
5 thousand dollars (\$22,000) adjusted by the percentage change in
6 the average compensation earnable of active members of the
7 Defined Benefit Program, as determined by the system, from the
8 1998–99 fiscal year to the fiscal year ending in the previous
9 calendar year. *Notwithstanding the preceding sentence, as of July*
10 *1, 2010, the limitation that shall apply to the compensation for*
11 *performance of the activities identified in subdivision (a) or (b) of*
12 *Section 22119.5 either as an employee of an employer, an employee*
13 *of a third party, or as an independent contractor shall be zero*
14 *dollars (\$0) during the first six calendar months after a member*
15 *retired for service under this part, if the member is below normal*
16 *retirement age at the time the compensation is earned.*

17 (g) If a member retired for service under this part earns
18 compensation for performing activities identified in subdivision
19 (a) or (b) of Section 22119.5 in excess of the limitation specified
20 in subdivision (f), as an employee of an employer, as an employee
21 of a third party, or as an independent contractor, within the
22 California public school system, and if that compensation is not
23 exempt from that limitation under subdivision (e) or any other
24 provisions of law, the member's retirement allowance shall be
25 reduced by the amount of the excess compensation. The amount
26 of the reduction may be equal to the monthly allowance payable
27 but shall not exceed the amount of the annual allowance payable
28 under this part for the fiscal year in which the excess compensation
29 was earned.

30 (h) The amendments to this section enacted during the 1995–96
31 Regular Session shall be deemed to have become operative on July
32 1, 1996.

33 (i) This section shall remain in effect only until June 30, ~~2010~~
34 ~~2012~~, and shall be repealed on January 1, ~~2011~~ 2013, unless a later
35 enacted statute deletes or extends that date.

36 SEC. 2. Section 24214 of the Education Code, as amended by
37 Section 6 of Chapter 494 of the Statutes of 2008, is amended to
38 read:

39 24214. (a) A member retired for service under this part may
40 perform the activities identified in subdivision (a) or (b) of Section

1 22119.5 as an employee of an employer, as an employee of a third
2 party, or as an independent contractor within the California public
3 school system, but the member may not make contributions to the
4 retirement fund or accrue service credit based on compensation
5 earned from that service. The employer shall maintain accurate
6 records of the earnings of the retired member and report those
7 earnings monthly to the system and retired member as described
8 in Section 22461.

9 (b) If a member is retired for service under this part, the rate of
10 pay for service performed by that member as an employee of the
11 employer, as an employee of a third party, or as an independent
12 contractor within the California public school system may not be
13 less than the minimum, nor exceed that paid by the employer to
14 other employees performing comparable duties.

15 (c) A member retired for service under this part may not be
16 required to reinstate for performing the activities identified in
17 subdivision (a) or (b) of Section 22119.5 as an employee of an
18 employer, as an employee of a third party, or as an independent
19 contractor within the California public school system.

20 (d) A member retired for service under this part may earn
21 compensation for performing activities identified in subdivision
22 (a) or (b) of Section 22119.5 in any one school year up to the
23 limitation specified in subdivision (f) as an employee of an
24 employer, as an employee of a third party, or an independent
25 contractor, within the California public school system, without a
26 reduction in his or her retirement allowance.

27 (e) The postretirement compensation limitation provisions set
28 forth in this section are not applicable to compensation earned for
29 the performance of the activities described in subdivision (a) for
30 which the employer is not eligible to receive state apportionment
31 or to compensation that is not creditable pursuant to Section
32 22119.2.

33 (f) The limitation that shall apply to the compensation for
34 performance of the activities identified in subdivision (a) or (b) of
35 Section 22119.5 by a member retired for service under this part
36 either as an employee of an employer, an employee of a third party,
37 or as an independent contractor shall, in any one school year, be
38 an amount calculated by the board each July 1 equal to twenty-two
39 thousand dollars (\$22,000) adjusted by the percentage change in
40 the average compensation earnable of active members of the

1 Defined Benefit Program, as determined by the system, from the
2 1998–99 fiscal year to the fiscal year ending in the previous
3 calendar year. *Notwithstanding the preceding sentence, the*
4 *limitation that shall apply to the compensation for performance*
5 *of the activities identified in subdivision (a) or (b) of Section*
6 *22119.5 either as an employee of an employer, an employee of a*
7 *third party, or as an independent contractor shall be zero dollars*
8 *(\$0) during the first six calendar months after a member retired*
9 *for service under this part, if the member is below normal*
10 *retirement age at the time the compensation is earned.*

11 (g) If a member retired for service under this part earns
12 compensation for performing activities identified in subdivision
13 (a) or (b) of Section 22119.5 in excess of the limitation specified
14 in subdivision (f), as an employee of an employer, as an employee
15 of a third party, or as an independent contractor, within the
16 California public school system, the member's retirement
17 allowance shall be reduced by the amount of the excess
18 compensation. The amount of the reduction may be equal to the
19 monthly allowance payable but may not exceed the amount of the
20 annual allowance payable under this part for the fiscal year in
21 which the excess compensation was earned.

22 (h) The language of this section derived from the amendments
23 to the section of this number added by Chapter 394 of the Statutes
24 of 1995, enacted during the 1995–96 Regular Session, is deemed
25 to have become operative on July 1, 1996.

26 (i) This section shall become operative on July 1, ~~2010~~ 2012.

27 SEC. 3. Section 24216 of the Education Code is amended to
28 read:

29 24216. (a) (1) A member retired for service under this part
30 who is appointed as a trustee or administrator by the Superintendent
31 pursuant to Section 41320.1, or who is appointed as a trustee
32 pursuant to the Immediate Intervention/Underperforming Schools
33 Program (Article 3 (commencing with Section 52053) of Chapter
34 6.1 of Part 28) or the High Priority Schools Grant Program (Article
35 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part
36 28), or a member retired for service who is assigned by a county
37 superintendent of schools pursuant to Article 2 (commencing with
38 Section 42122) of Chapter 6 of Part 24, shall be exempt from
39 subdivisions (d) and (f) of Section 24214 for a maximum period
40 of two years.

1 (2) The period of exemption shall commence on the date the
2 member retired for service is appointed or assigned *to the position*
3 and shall end no more than two calendar years from that date, after
4 which the limitation specified in subdivisions (d) and (f) of Section
5 24214 shall apply.

6 (3) An exemption under this subdivision shall be granted by the
7 system providing that the Superintendent or the county
8 superintendent of schools submits documentation required by the
9 system to substantiate the eligibility of the member retired for
10 service for an exemption under this subdivision.

11 (b) (1) A member retired for service under this part who is
12 employed by an employer to perform creditable service in an
13 emergency situation to fill a vacant administrative position
14 requiring highly specialized skills shall be exempt from the
15 provisions of subdivisions (d) and (f) of Section 24214 for
16 creditable service performed up to one-half of the full-time
17 position, if the vacancy occurred due to circumstances beyond the
18 control of the employer.

19 (2) The period of exemption shall commence on the date the
20 member retired for service is appointed or assigned *to the position*
21 and shall end no more than two calendar years from that date, after
22 which the limitation specified in subdivisions (d) and (f) of Section
23 24214 shall apply.

24 (3) An exemption under this subdivision shall be granted by the
25 system subject to the following conditions:

26 (A) The recruitment process to fill the vacancy on a permanent
27 basis is expected to extend over several months.

28 (B) The employment is reported in a public meeting of the
29 governing body of the employer.

30 (C) The employer submits documentation required by the system
31 to substantiate the eligibility of the member retired for service for
32 an exemption under this subdivision.

33 (4) *An exemption under this subdivision shall not be granted to*
34 *a member retired for service whose termination of employment*
35 *with the employer is the basis for the vacant administrative*
36 *position.*

37 (c) This section does not apply to any person who has received
38 additional service credit pursuant to Section 22715 or 22716.

39 (d) A person who has received additional service credit pursuant
40 to Section 22714 or 22714.5 shall be ineligible for one year from

1 the effective date of retirement for the exemption provided in this
2 section for service performed in any school district, community
3 college district, or county office of education in the state.

4 (e) This section shall remain in effect only until June 30, ~~2010~~
5 2012, and shall be repealed on January 1, ~~2011~~ 2013, unless a later
6 enacted statute deletes or extends that date.

7 SEC. 4. Section 24216.5 of the Education Code is amended to
8 read:

9 24216.5. (a) The compensation earned by a member who
10 retired for service under this part shall be exempt from subdivisions
11 (d), (f), and (g) of Section 24214, if all of the following conditions
12 are met:

13 (1) The member retired for service with an effective date on or
14 before January 1, ~~2007~~ 2009.

15 (2) The member retired for service is employed by a school
16 district to provide any of the following:

17 (A) Direct classroom instruction to pupils enrolled in
18 kindergarten or any grades 1 to 12, inclusive.

19 (B) Support and assessment for new teachers through the
20 Beginning Teacher Support and Assessment program authorized
21 by Section 44279.1.

22 (C) Support to individuals completing student teaching
23 assignments.

24 (D) Support to individuals participating in the following
25 programs:

26 (i) Pre-Internship Teaching Program authorized pursuant to
27 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
28 25.

29 (ii) Alternative certification programs authorized pursuant to
30 Article 11 (commencing with Section 44380) of Chapter 2 of Part
31 25.

32 (iii) School Paraprofessional Teacher Training Program
33 established pursuant to Article 12 (commencing with Section
34 44390) of Chapter 2 of Part 25.

35 (E) Instruction and pupil services provided to pupils enrolled
36 in special education programs authorized pursuant to Part 30
37 (commencing with Section 56000) of Division 4 of Title 2.

38 (F) Instruction to pupils enrolled in English language learner
39 programs authorized pursuant to Chapter 3 (commencing with
40 Section 300), Chapter 4 (commencing with Section 400), and

Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, ~~2010~~ 2012, and shall be repealed as of January 1, ~~2011~~ 2013, unless a later enacted statute deletes or extends that date.

SEC. 5. Section 24216.6 of the Education Code is amended to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, ~~2007~~ 2009.

1 (2) The member retired for service is employed by a school
2 district to provide direct remedial instruction to pupils in grades
3 2 to 12, inclusive. "Remedial instruction" means the programs
4 specified in Sections 37252 and 37252.2.

5 (3) All members retired for service whose employment with a
6 school district meets the conditions specified in this section shall
7 be treated as a distinct class of temporary employees within the
8 existing bargaining unit whose service may not be included in
9 computing the service required as a prerequisite to attainment of
10 or eligibility for classification as a permanent employee of a school
11 district. The compensation for service performed by this class of
12 employees shall be established in accordance with subdivision (b)
13 of Section 24214 and agreed to in the collective bargaining
14 agreement between the employing school district and the exclusive
15 representative for the existing bargaining unit within which these
16 temporary employees of the school district are treated as a distinct
17 class.

18 (4) The employing school district submits documentation
19 required by the system to substantiate the eligibility of the
20 temporary employment of a member retired for service for the
21 exemption under this subdivision. That documentation shall be on
22 a properly executed form provided by the system.

23 (b) A school district that employs a member retired for service
24 pursuant to this section shall maintain accurate records of the
25 retired member's compensation earned and shall report that
26 compensation monthly to the system regardless of the method of
27 payment or the source of funds from which the compensation is
28 paid.

29 (c) This section does not apply to the compensation earned for
30 creditable service performed by a member retired for service for
31 a county office of education or a community college district.

32 (d) This section shall remain in effect only until June 30, ~~2010~~
33 ~~2012~~, and shall be repealed as of January 1, ~~2011~~ ~~2013~~, unless a
34 later enacted statute deletes or extends that date.